

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

MARTIN JANKOWSKI

Plaintiff(s),

*-against-*ROMAN CATHOLIC DIOCESE OF BROOKLYN, NEW
YORK AND ROBERT J. MCCONNIN

Defendant(s).

Index No.

Summons

Date Index No. Purchased:

To the above named Defendant(s)

Roman Catholic Diocese of Brooklyn, 310 Prospect Park West, Brooklyn, NY 11215
Robert J. McConnin, 451 Lake Raponda Road, Wilmington, VT 05363

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is Defendants' principal place of business,
which is in Kings County

Dated: August 14, 2019

Seeger Weiss LLP

by 

Stephen A. Weiss

Attorneys for Plaintiff

77 Water Street, 8th Floor
New York, NY 10005
Phone: (212) 584-0700
Fax: (212) 584-0799

Stephen A. Weiss (NY ID# 2413342)
Christopher A. Seeger (NY ID# 2425304)
Rick Barreca (NY ID# 2972735)
SEEGER WEISS LLP
77 Water Street, 8th Floor
New York, NY 10005
Phone: 212-584-0700
Fax: 212-584-0799
sweiss@seegerweiss.com
cseeger@seegerweiss.com
rbarreca@seegerweiss.com

Gerald J. Williams (NY ID #5620695)
Shauna L. Friedman (NY ID#5609755)
WILLIAMS CEDAR, LLC
1515 Market Street, Suite 1300
Philadelphia, Pennsylvania 19102-1931
Phone: 215.557.0099
Fax: 215.557.0673
gwilliams@williamscedar.com
sfriedman@williamscedar.com

Application to New York Bar Pending:

Michelle Simpson Tuegel
SEEGER WEISS LLP
77 Water Street, 8th Floor
New York, NY 10005
Phone: 212-584-0700
Fax: 212-584-0799
MSimpson-Tuegel@seegerweiss.com

Muhammad S. Aziz
ABRAHAM, WATKINS, NICHOLS,
SORRELS, AGOSTO & AZIZ
800 Commerce Street
Houston, Texas 77002-1776
Phone: 713-222-7211
Fax: 713-225-0827
maziz@awtxlaw.com

Pro Hac Vice Application to be Filed:

Beth G. Cole
WILLIAMS CEDAR, LLC
1515 Market Street, Suite 1300
Philadelphia, Pennsylvania 19102-1931
Phone: 215.557.0099
Fax: 215.557.0673
bcole@williamscedar.com

Attorneys for Plaintiff

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

MARTIN JANKOWSKI,

Index No. _____

Plaintiff,

-against-

COMPLAINT

ROMAN CATHOLIC DIOCESE
OF BROOKLYN, NEW YORK and ROBERT J.
McCONNIN

JURY TRIAL DEMANDED

Defendants.

Plaintiff, Martin Jankowski, by and through the undersigned attorneys, complains of Defendants, the Roman Catholic Diocese of Brooklyn and Robert J. McConnin, and alleges on personal knowledge as to himself and on information and belief as to all other matters, as follows:

PARTIES

1. Plaintiff Martin Jankowski is a fifty-four-year-old resident of New York. Plaintiff was approximately thirteen-years old at the time of the sexual abuse alleged herein.

2. Defendant Roman Catholic Diocese of Brooklyn, New York a/k/a Diocese of Brooklyn ("Brooklyn Diocese") was and continues to be an organization or entity which includes, but is not limited to, civil corporations, decision making entities, officials and employees authorized to conduct business in the State of New York with its principal place of business at 310 Prospect Park West, Brooklyn, NY 11215, in Kings County, New York.

3. Defendant Robert J. McConnin ("Defendant McConnin") currently resides and may be served with process at 451 Lake Raponda Road, Wilmington, VT 05363 or wherever he may be found.

JURISDICTION AND VENUE

4. This Court has personal jurisdiction over the Defendants pursuant to CPLR §§301 and 302, because Plaintiff's claims arise from the tortious acts of Defendants that were committed in the State of New York.

5. The Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

6. Venue is proper in the County of Kings under CPLR §503 because at least one of the parties to this suit reside in this county at the time this suit was commenced and all or a substantial part of the events or omissions giving rise to this cause of action occurred in Kings County, New York.

7. The federal courts lack jurisdiction over this suit. Plaintiff's claim raises no federal question nor does Plaintiff seek relief under a federal law, statute, regulation, treaty, or the United States Constitution. Accordingly, Plaintiff's right to relief does not depend on the resolution of a substantial question of federal law. Further, this lawsuit cannot be removed because there is no complete diversity, as at least one Defendant resides or has their principal place of business in New York. Therefore, removal would be improper.

FACTS

8. Defendant Robert McConnin was ordained as a Roman Catholic priest in 1973 and served within the Brooklyn Diocese at St. Theresa Lisieux Roman Catholic Church, located at 4404 Avenue D, Brooklyn, New York 11215.

9. Plaintiff and his family for many years were devout Roman Catholics who attended St. Theresa Lisieux Roman Catholic Church.

10. Plaintiff was sexually abused by Defendant McConnin in approximately 1978 when he was or about thirteen-years old.

11. The sexual abuse occurred during a retreat to Darien, Connecticut, organized by Defendant McConnin under the authority of the Brooklyn Diocese. Defendant McConnin took Plaintiff and two other children to this purported retreat, which lasted from Friday through Sunday evening.

12. During the purported retreat, Defendant McConnin made Plaintiff and the other two children stay in the same hotel room as Defendant McConnin, which had two beds. Plaintiff slept on one bed with one of the children while Defendant McConnin and the other child slept on the other bed.

13. On Friday night, Defendant McConnin told Plaintiff and the other students that they had to “double up” in the shower to conserve water. Plaintiff was the first student made to shower with Defendant McConnin.

14. Defendant McConnin led Plaintiff to the shower and, when they were both naked, touched Plaintiff’s genitals and told Plaintiff to touch and rub Defendant’s genitals in return, which made Plaintiff extremely nervous and he began to cry. Despite Plaintiff’s clearly frightened reaction, Defendant McConnin forced Plaintiff to turn around and anally penetrated him. As Plaintiff began to cry uncontrollably, Defendant McConnin stopped his assault of Plaintiff and told him to not tell anyone about this incident.

15. Plaintiff retreated to a corner of the bathroom while Defendant McConnin continued to shower. Defendant McConnin then gave Plaintiff time to finish crying before leaving the bathroom.

16. Plaintiff was frightened and shocked by this assault by Defendant McConnin and was visibly stone-faced when he left the bathroom. Plaintiff was then forced to sleep in the same room as McConnin on Friday and Saturday night.

17. On Saturday, Defendant McConnin took Plaintiff and the other two children to a Friendly's restaurant and to see a movie. While at Friendly's, McConnin repeatedly asked Plaintiff why he appeared upset, but Plaintiff was too distraught to offer a response. Subsequently on Saturday night, Plaintiff saw Defendant McConnin take one of the other children into the shower, just as he had done with Plaintiff on the night before.

18. As Plaintiff was away from home on a retreat in the care and custody of Defendant McConnin, he had no means to escape his abuser and was forced to be in Defendant McConnin's company throughout the duration of the purported retreat. Plaintiff's ordeal ended when McConnin dropped Plaintiff off at his family's home on Sunday evening.

19. Due to this abuse of Plaintiff by Defendant McConnin, Plaintiff suffered chronic mental health issues including panic attacks and agoraphobia, which have required and/or will require counseling and other treatment.

CAUSES OF ACTION AGAISNT DEFENDANT PETER McCONNIN

A. ASSAULT

20. Plaintiff incorporates each and every allegation set forth in paragraphs 8 through 12 as if fully set forth herein.

21. Defendant McConnin's abuse of Plaintiff placed Plaintiff in imminent apprehension of harmful contact, was committed intentionally and in wanton disregard for the health and/or safety of Plaintiff, and is a tortious assault under the law of New York.

22. This assault was a proximate cause of the harms and damages to Plaintiff.

B. BATTERY

23. Plaintiff incorporates each and every allegation set forth in paragraphs 8 through 12 as if fully set forth herein.

24. Defendant McConnin's uninvited and offensive touching of Plaintiff was a battery upon Plaintiff and a violation of Plaintiff's body and done intentionally in wanton disregard for the health and/or safety of Plaintiff.

25. This battery was a proximate cause of the harms and damages to Plaintiff.

C. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

26. Plaintiff incorporates each and every allegation set forth in paragraphs 8 through 12 as if fully set forth herein.

27. Defendant McConnin's conduct toward Plaintiff was extreme and outrageous. The damage that such conduct would cause Plaintiff was intended by Defendant McConnin, or Defendant McConnin disregarded a substantial likelihood of the damage such conduct caused.

28. As a proximate result of Defendant McConnin's actions, Plaintiff suffered severe emotional distress.

CAUSES OF ACTION AGAINST DEFENDANT BROOKLYN DIOCESE**A. VICARIOUS LIABILITY/*RESPONDEAT SUPERIOR***

29. Plaintiff incorporates each and every allegation set forth in paragraphs 8 through 12 as if fully set forth herein.

30. Plaintiff affirmatively pleads that any alleged tortious acts of Defendant McConnin were committed while he was acting in the course and scope of his employment with Defendant Brooklyn Diocese, or while he were acting as an agent or on behalf of Defendant Brooklyn

Diocese, and are thus imputed to Defendant Brooklyn Diocese under a legal theory of *respondeat superior*.

B. NEGLIGENCE

31. Plaintiff incorporates each and every allegation set forth in paragraphs 8 through 12 as if fully set forth herein.

32. Defendant Brooklyn Diocese held itself out to be safe places for religious worship, spiritual development and growth, learning and education, or engaging in youth and/or community activities. Defendant Brooklyn Diocese had, adopted, and/or assumed an express and/or implied duty to provide a reasonably safe environment for Plaintiff and assumed the duty to protect and care for him.

33. Defendant Brooklyn Diocese owed a duty of care to all minor persons, including Plaintiff, who were likely to come within the influence or supervision of Defendant McConnin, in their role as teacher, priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer.

34. Defendant Brooklyn Diocese breached their duties of care in one or more of the following ways:

- a. Negligently hiring Defendant McConnin as they knew or should have known that he posed a threat of sexual abuse to children;
- b. Negligently retaining Defendant McConnin as they knew or should have known that he posed a threat of sexual abuse to children;
- c. Negligently directing Defendant McConnin as they knew or should have known that he posed a threat of sexual abuse to children;
- d. Negligently supervising Defendant McConnin as they knew or should have known that he posed a threat of sexual abuse to children;
- e. Failing to investigate the background of Defendant McConnin before placing them into close contact with Plaintiff;

- f. “Covering up” or otherwise failing to disclose the harmful acts of Defendant McConnin;
- g. Failing to warn Plaintiff, his parents and/or legal guardians of Defendant McConnin’s conduct despite having constructive knowledge of sexual abuse;
- h. Failing to warn Plaintiff, his parents and/or guardians of Defendant McConnin’s conduct despite having actual knowledge of sexual abuse;
- i. Assigning or allowing Defendant McConnin to have contact with Plaintiff despite having constructive and/or actual knowledge of sexual abuse;
- j. Minimizing, ignoring or excusing priestly misconduct over a period of decades;
- k. Failing to provide a safe environment to children and other parishioners within the churches, sacristies, schools and rectories operated and/or owned by the Archdiocese;
- l. Failing to train priests and Archdiocesan employees to identify signs of child molestation by fellow employees;
- m. Failing to implement and maintain effective policies and procedures to prevent sexual abuse and abuse of children;
- n. Failing to investigate complaints of abuse properly;
- o. Failing to report Defendant McConnin’s sexual abuse to appropriate law enforcement agencies; and
- p. Failing to exercise due care under the circumstances.

35. As a foreseeable, direct, and proximate result of Defendant Brooklyn Diocese’s negligence, Plaintiff has suffered and will continue to suffer the injuries described herein.

C. GROSS NEGLIGENCE

36. Plaintiff incorporates each and every allegation set forth in paragraphs 8 through 12 as if fully set forth herein.

37. Defendant Brooklyn Diocese’s acts and omissions, as previously described, were committed with complete and reckless disregard for, and with willful, wanton, and actual conscious indifference to, the rights, safety, and welfare of Plaintiff and the general public. The

nature of Defendant Brooklyn Diocese's acts and omissions were of such a nature as to constitute gross negligence and malice. Specifically, Defendant Brooklyn Diocese's undertook a continuous course of action in the form of conscious decisions, with subjective knowledge and awareness of the risks and hazards presented by each decision as discussed above and incorporated herein, to expose Plaintiff and others to sexual abuse and/or sexual assault, and exercised not even slight care or diligence. When viewed objectively from the standpoint of Defendant Brooklyn Diocese at the time of their occurrence, said acts and omissions involved reckless disregard of or indifference to an extreme degree of physical, mental, and psychological risk and danger, considering the probability and the magnitude of the potential harm to others. Defendant Brooklyn Diocese committed various acts and omissions constituting gross negligence, as outlined above. Such gross negligence was a foreseeable, direct, and proximate cause of the occurrence and Plaintiff's injuries and damages.

D. BREACH OF FIDUCIARY DUTY

38. Plaintiff incorporates each and every allegation set forth in paragraphs 8 through 12 as if fully set forth herein.

39. There is a fiduciary relationship between Plaintiff and Defendant Brooklyn Diocese. This relationship is based on the fact that Plaintiff trusted his physical, mental, psychological, and spiritual care to the priests, officers, directors, officials, employees, volunteers, servants, and/or all those acting as agents of Defendant Brooklyn Diocese or on their behalf, who held themselves out as beholden to a spiritual and interpersonal duty to provide advice, benefit, and guidance to Plaintiff.

40. Because of this fiduciary relationship, Defendant Brooklyn Diocese was required and had a duty to act in the best interests of Plaintiff and to protect him while he was a minor child.

41. Defendant Brooklyn Diocese breached its fiduciary duty to Plaintiff.

42. As a foreseeable, direct, and proximate result of Defendant Brooklyn Diocese's breach of fiduciary duty, Plaintiff has suffered and will continue to suffer the injuries described herein.

E. BREACH OF NON-DELEGABLE DUTY

43. Plaintiff incorporates each and every allegation set forth in paragraphs 8 through 12 as if fully set forth herein.

44. When Plaintiff was a minor, he was placed into the care of Defendant Brooklyn Diocese for the purpose of providing Plaintiff with a safe environment in which to receive and education and/or participate in religious worship, spiritual development, and community service. Because Defendant Brooklyn Diocese was entrusted with the care of Plaintiff while he was a minor child, there existed a non-delegable duty of care that went from Defendant Brooklyn Diocese to Plaintiff.

45. Since Plaintiff was a minor child at the time, Defendant Brooklyn Diocese was in the best position to prevent the abuse that Plaintiff suffered at the hands of Defendant McConnin, and/or stop such abuse when they learned of it.

46. Defendant Brooklyn Diocese failed to prevent the abuse and harm Plaintiff suffered, and/or they failed to stop it once they were aware of or should have been aware of the abuse. This failure was a breach of Defendant Brooklyn Diocese's non-delegable duty to Plaintiff.

47. As a foreseeable, direct, and proximate result of this breach, Plaintiff suffered significant injuries and long-lasting damages.

F. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

48. Plaintiff incorporates each and every allegation set forth in paragraphs 8 through 12 as if fully set forth herein.

49. As described in Sections B-E, Defendant Brooklyn Diocese owed Plaintiff various duties, which Defendant Brooklyn Diocese negligently breached. Defendant Brooklyn Diocese's negligence unreasonably endangered Plaintiff and caused him to fear for his own safety.

50. As a foreseeable, direct, and proximate result of Defendant Brooklyn Diocese's negligence, Plaintiff suffered severe injuries, including but not limited to mental and emotional distress.

G. BREACH OF DUTY *IN LOCO PARENTIS*

51. Plaintiff incorporates each and every allegation set forth in paragraphs 8 through 12 as if fully set forth herein.

52. While he was a minor, Plaintiff was entrusted by his parents to the control of Defendant Brooklyn Diocese for the purpose of providing Plaintiff an education and spiritual development.

53. During the times that Plaintiff was at Defendant Brooklyn Diocese, he was under the control and supervision of Defendant Brooklyn Diocese. These Defendants owed a duty to Plaintiff to act in loco parentis and to prevent foreseeable injuries.

54. Defendant Brooklyn Diocese breached their duty to act in loco parentis. As a foreseeable, direct, and proximate result of their breach of duty, Plaintiff suffered injuries.

H. FRAUDULENT CONCEALMENT

55. Plaintiff incorporates each and every allegation set forth in paragraphs 8 through 12 as if fully set forth herein.

56. For many years after Plaintiff's abuse at the hands of Defendant McConnin, Defendant Brooklyn Diocese engaged in a conscious, deliberate plan to conceal the abuse, including but not limited to:

- a. Concealing from the public the sexual abuse committed by Defendant McConnin;
- b. Concealing the identities of Defendant McConnin;
- c. Concealing from appropriate law enforcement officials the sexual abuse committed by Defendant McConnin against Plaintiff and/or other minors;
- d. Attacking the credibility of Plaintiff and/or other victims of Defendant McConnin; and
- e. Impeding or otherwise preventing Plaintiff and other victims from pursuing legal action against Defendant McConnin.

57. Defendant Brooklyn Diocese had a duty to disclose the information it concealed in Paragraph 49, and its concealment therefore amounted to a misrepresentation.

58. Defendant Brooklyn Diocese concealed this information with fraudulent intent, with the goal of inducing reliance.

59. Plaintiff, and others, justifiably relied upon Defendant Brooklyn Diocese's concealment of this material information.

60. As a foreseeable, direct, and proximate result of Defendant Brooklyn Diocese's concealment, Plaintiff suffered significant injuries.

DAMAGES

61. Plaintiff seeks compensation for the following damages that resulted from this incident:

- a. Past mental anguish of Plaintiff, and that he will, in all probability, suffer in the future;
- b. Past physical pain and suffering of Plaintiff, and that he will, in all probability, suffer in the future;

- c. The medical expenses that Plaintiff has incurred in the past and will, in all probability continue to incur in the future;
- d. Past and future lost wages;
- e. Loss of earning capacity;
- f. Cost of suit;
- g. Reasonable and necessary attorney's fees;
- h. Punitive damages;
- i. Exemplary damages; and
- j. Any and all other damages to which Plaintiff may be justly entitled.

PRESERVATION OF EVIDENCE

62. Plaintiff hereby requests and demand that Defendants preserve and maintain all evidence pertaining to any claim or defense related to the incident made the basis of this lawsuit, or the damages resulting therefrom, including photographs; videotapes, audiotapes; recordings; business records; medical records; billing records; estimates; invoices; checks; correspondence; memoranda; files; facsimiles; emails; voice mail; text messages; investigations; cellular telephone records; calendar entries; and any electronic image, data, or information related to Plaintiff(s), the references incident, or any damages resulting therefrom. Failure to maintain such items will constitute spoliation of the evidence.

JURY DEMAND

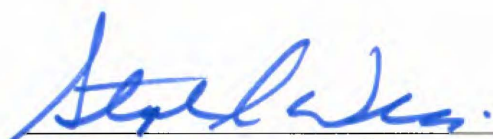
63. Plaintiff demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE Plaintiff prays that Defendants be cited in terms of law to appear and answer herein, that upon final trial and hearing hereof, that Plaintiff recovers damages from

Defendants in accordance with the evidence; that Plaintiff recovers costs of court herein expended; that Plaintiff recovers interest to which Plaintiff is justly entitled under law, both prejudgment and post-judgment; that Plaintiff recovers actual damages; that Plaintiff is entitled to recover compensatory damages; that Plaintiff recovers punitive damages; and for such other further relief, both general and special, both in law and in equity, to which Plaintiff may be justly entitled.

Respectfully submitted,



Stephen A. Weiss (NY ID# 2413342)
Christopher A. Seeger (NY ID# 2425304)
Rick Barreca (NY ID# 2972735)
SEEGER WEISS LLP
77 Water Street, 8th Floor
New York, NY 10005
Phone: 212-584-0700
Fax: 212-584-0799
sweiss@seegerweiss.com
cseeger@seegerweiss.com
rbarreca@seegerweiss.com

Gerald J. Williams (NY ID #5620695)
Shauna L. Friedman (NY ID#5609755)
WILLIAMS CEDAR, LLC
1515 Market Street, Suite 1300
Philadelphia, Pennsylvania 19102-1931
Phone: 215.557.0099
Fax: 215.557.0673
gwilliams@williamscedar.com
sfriedman@williamscedar.com

Application to New York Bar Pending:

Michelle Simpson Tuegel
SEEGER WEISS LLP
77 Water Street, 8th Floor
New York, NY 10005
Phone: 212-584-0700
Fax: 212-584-0799
MSimpson-Tuegel@seegerweiss.com

Muhammad S. Aziz
ABRAHAM, WATKINS, NICHOLS,
SORRELS, AGOSTO & AZIZ
800 Commerce Street
Houston, Texas 77002-1776
Phone: 713-222-7211
Fax: 713-225-0827
maziz@awtxlaw.com

Pro Hac Vice Application to be Filed:

Beth G. Cole
WILLIAMS CEDAR, LLC
1515 Market Street, Suite 1300
Philadelphia, Pennsylvania 19102-1931
Phone: 215.557.0099
Fax: 215.557.0673
bcole@williamscedar.com

Attorneys for Plaintiff